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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,000	12/05/2003	John M. Guynn	15257.3.2	9102
7590 03/23/2007 John M. Guynn WORKMAN NYDEGGER 1000 Eagle Gate Tower 60 East South Temple Salt Lake City, UT 84111			EXAMINER VALENTI, ANDREA M	
			ART UNIT 3643	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/23/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/729,000

Applicant(s)

GUYNN, JOHN M.

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 16-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28 is/are allowed.
- 6) ☒ Claim(s) 1-13, 16-27 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 5 is objected to because of the following informalities:

Claim 5, line 3, "the attachment means" should be --the corset or harness--

Appropriate correction is required.

Claim Rejections - 35 USC § 102/103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-8, 29 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 4,396,013 to Hasslinger.

Regarding Claims 1 and 29, Hasslinger teaches a restraint device for use in holding or restraining a child in a desired position, comprising: a pair of opposing handles (Hasslinger Fig. 4 #38, opposing sides of the spine), each configured to be gripped by a person's hand; and a corset or harness (Hasslinger Fig. 4 #10) for attaching the pair of opposing handles adjacent to a child's body on opposite sides of a

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child's body so as to lie on a central balancing plane during use, the corset or harness having an upper edge and a lower edge opposite the upper edge, the corset or harness being configured so that at least one handle lies next to a child's body or clothing while the restrain device is worn so that a hand gripping the handle remains close to the child's body during use and so that at least a portion of the hand gripping the handle is disposed between at least a portion of the handle and the child's body, each of the pair of opposing handles having a loop that is secured and positioned relative to the corset or harness along a single line that extends transversely between the upper and lower edges of the corset or harness so that a hand gripping each of the opposing handles is positioned adjacent to the corset or harness at least partially between the upper and lower edges, each of the pair of opposing handles being and sized so as to allow insertion therein of at least three fingers of a person (Hasslinger Col. 1 line 5-10) using the device to hold or restrain a child, the handles extending laterally away from a surface of the corset or harness (Hasslinger Fig. 1 #38) so as to provide an opening into which a person can readily insert fingers without spreading the handles apart from the corset or harness, at least one handle being permanently attached to the corset or harness (Hasslinger #40 and Col.6 line 40-41) to prevent inadvertent detachment of the at least one handle from the corset or harness to protect a child from being accidentally dropped during use of the restraint device; cushioning material on inner surface (Hasslinger Col. 5 line 19-20)

The device of Hasslinger is for guiding an individual which inherently could include children and that the device is designed to accommodate individuals of different

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girth (Hasslinger Col. 4 line 10-11 and Col. 7 line 25-27). Given another interpretation of the claim it could be viewed that Hasslinger does not explicitly teach the restraint device being worn by a child. However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Hasslinger at the time of the invention since the modification is merely a change in size to accommodate a child to provide proper safety/rescue/support measures [*In re Rose*, 220 F.2d 459, 463, 105 USPQ 237, 240 (CCPA 1955)].

Regarding Claim 2, Hasslinger as modified teaches the handles comprising at least one loop of fabric (Hasslinger #38) having an opening that accommodates insertion of four fingers therethrough while gripping the loop.

Regarding Claim 3, Hasslinger as modified teaches the corset or harness comprises a single sheet or strap of flexible material configured so as to wrap at least partially around a child's body (Hasslinger #10).

Regarding Claims 5 and 6, Hasslinger as modified teaches the corset or harness comprises one or more hook and loop fastening devices configured so as to releasably attach the corset or harness to a child's body (Hasslinger Col. 5 line 66-67).

Regarding Claim 7, Hasslinger as modified teaches the corset or harness configured (merely capable of) and handles positioned relative to the corset or harness so as to position one of the handles at or near the child's spine and the other of the handles at or near the child's sternum (Hasslinger Fig. 4 left side is **near** the spine and #38 right side is **near** the sternum since near merely means in the vicinity, close by, in the neighborhood).

Regarding Claim 8, Hasslinger as modified teaches the corset or harness configured and handles positioned relative to the corset or harness so as to position the handles so that both lie on a central balancing plane that passes through a child's spine and sternum or a central balancing plant that passes through a child' left and right shoulder (Hasslinger Fig. 4 #38).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,396,013 to Hasslinger in view of U.S. Patent No. 6,073,280 to Farnum.

Regarding Claim 4, Hasslinger as modified is silent on the attachment means comprising a plurality of straps configured so as to wrap at least partially around the child's torso or limbs. However, Farnum '280 teaches a plurality of straps (Farnum '280 Fig. 2 #19, 33, 18, 54). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Hasslinger with the teachings of Farnum '280 at the time of the invention since the modification is merely duplicating a part for a multiple effect for the advantage of being able to grip the device in more locations (Farnum '280 #66).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,396,013 to Hasslinger in view of U.S. Patent No. 5,007,413 to Thune.

Regarding Claim 9, Hasslinger as modified is silent on a head restraining system configured to restrain a child's head in a desired position relative to the child's body when the restraint device is in use that engages at least a portion of a child' skull region. However, Thune teaches a head restraint system (Thune Fig. 2 #11, 12) comprising a

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concave region configured to receive at least a portion of the child's skull in order for the head restraint system to securely restrain that is configured to attach to a child's head and restrain the child's head in a desired position. It would have been obvious to one of ordinary skill in the art to further modify the teachings of Hasslinger with the teachings of Thune at the time of the invention for the advantage of immobilizing the head in a first aid response as taught by Thune (Thune abstract).

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,396,013 to Hasslinger in view of U.S. Patent No. 4,717,056 to Carmichael.

Regarding Claim 27, Hasslinger as modified is silent on the handles being selectively connected and unconnected with a releasable and reconnectable attachment means connecting and unconnecting the handle straps so as to selectively form and unform the loop. However, Carmichael teaches that it is old and notoriously well-known to provide adjustable handles that selectively connect and unconnect with an attachment means (Carmichael #38; Fig. 2 #37, 36, 38). It would have been obvious to one of ordinary skill in the art to modify the handles of Hasslinger with the attachment means of Carmichael at the time of the invention for the known advantage of making the handles adjustable in size to accommodate different size hands comfortably. Merely modifying to make a known element adjustable does not present a patentably distinct limitation over the teachings of the cited prior art of record [*In re Stevens*, 212, F.2d 197, 198, 101 USPQ 284, 285 (CCPA 1954)].

Claim 29 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 5,647,378 to Farnum.

Regarding Claim 29, Farnum teaches a restraint device for use in holding or restraining a child in a desired position, comprising: a flexible corset or harness (Farnum #10) comprising one or more straps (Farnum #12) sized and configured so as to wrap around at least a portion of a child's body (Farnum Fig. 1); at least one fastener (Farnum #16a, 16b) connected to the corset or harness that permits selective fastening and unfastening of the corset or harness around at least a portion of the child's body; a central balancing handle (Farnum Fig. 2 horizontal handle in the middle), configured to be gripped by a person's hand, attached to the corset or harness in a manner so that the handle has a loop, substantially all of which is disposed between upper and lower edges of the flexible corset or harness, so as to be positioned next to the child's body or clothing and so as to lie on a central balancing plane of the child's body that passes through either (i) the child's spine and sternum or (ii) the child's shoulders and at least partially between the child's head and buttocks so that a hand gripping the handle remains close to the child's body and lies on a central balancing plane of the child's body when the restraint device is in use; friction enhancing material (Farnum Col. 1 line 57-58). An opposing handle is merely optional and is thus not a required limitation.

The device of Farnum is for guiding an individual which inherently could include children and that the device is designed to accommodate individuals of different girth (Farnum Col. 2 line 3-4). Given another interpretation of the claim it could be viewed

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that Farnum does not explicitly teach the restraint device being worn by a child.

However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Farnum at the time of the invention since the modification is merely a change in size to accommodate a child to provide proper safety/rescue/support measures [*In re Rose*, 220 F.2d 459, 463, 105 USPQ 237, 240 (CCPA 1955)].

Claims 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,647,378 to Farnum.

Regarding Claims 20-26, Farnum teaches a method of holding an individual/child in a desired position while giving a bathe with a device comprising releasably attaching a restraint device (Farnum #12) to a torso of the child (Farnum Fig. 1) in order for at least one strap of the device to be circumferentially wrapped around the torso and so that a handle (Farnum Fig. 2 teaches 3 handles) attached to the at least one strap extends laterally away from the strap so as to provide an opening into which fingers can be inserted and is positioned at or near a central balancing plane of the child's body between the child's head and buttocks and so that a portion thereof extends laterally away from the child's body to facilitate gripping of the handle.

Farnum teaches the restraint is designed to be used when bathing (Farnum Col. 2 line 31-32). The method steps of the instant claims are readily apparent during the operation of the device of Farnum. Examiner takes official notice that the method steps are known to those skilled in the art, sponge baths conducted by either a nurse to a patient or a mother to a child inherently involves providing support to the patient/child

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with one hand and washing with the second hand when the bath is conducted by one nurse or one mother alone. The mother or nurse would inherently at some point during the bath grip the handles with a handle to support the child when washing a particular region of the body.

The device of Farnum is for guiding an individual which inherently could include children and that the device is designed to accommodate individuals of different girth (Farnum Col. 2 line 3-4). Given another interpretation of the claim it could be viewed that Farnum does not explicitly teach the restraint device being worn by a child. However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Farnum at the time of the invention since the modification is merely a change in size to accommodate a child to provide proper safety/rescue/support measures [*In re Rose*, 220 F.2d 459, 463, 105 USPQ 237, 240 (CCPA 1955)].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-13, 16, 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,122,778 to Cohen in view of U.S. Patent No. 6,073,280 to Farnum.

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Regarding Claims 10 and 11, Cohen teaches the corset has a plurality of straps to wrap around a child's body and that the straps are spaced apart and exposes at least a portion of the child's body between the flexible straps so as to permit washing of the exposed portion of the child's body between the flexible straps (Cohen Fig. 8; Col. 1 line 13-15; Col. 2 line 48-50; Col. 3 line 52). Cohen teaches at least one fastening device (Cohen #34 and 38). Cohen teaches handles, but is silent on explicitly teaching a single handle extending laterally away from the flexible corset and configured to be gripped by a person's hand permanently attached to the corset and positioned next to attached to the corset or harness in a manner so that the handle is positioned next to the child's body or clothing adjacent (the term adjacent can be interpreted as nearby, next to, bordering) to the spine, sternum, stomach or chest of the child's body when the restraint device is in use so that a hand gripping the handle remains close to the child's body when the present device is in use; the handles are configured to be gripped by a person's hand.

However, Farnum teaches a restraint device for use in holding or restraining a child in a desired position and in a balanced fashion with a single hand of a person desiring to restrain the child; a flexible corset or harness sized and configured so as to wrap around at least a portion of a child's body (Farnum Col. 2 line 1-2), wherein the corset or harness comprises a plurality of flexible straps (Farnum Fig. 2 #19, 33, 54, 18) that are laterally spaced apart that wrap at least partially around the child's torso; at least one fastening device (Farnum #50 and 52) connected to the corset or harness that permits selective fastening and unfastening of the corset or harness around at least a

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portion of the child's body; **a single handle** (Farnum Fig. 2 #40 and 17) permanently attached to the corset and positioned next to attached to the corset or harness in a manner so that the handle is positioned next to the child's body or clothing adjacent (the term adjacent can be interpreted as nearby, next to, bordering) to the spine, sternum, stomach or chest of the child's body when the restraint device is in use so that a hand gripping the handle remains close to the child's body when the present device is in use; the handles are configured to be gripped by a person's hand.

It would have been obvious to one of ordinary skill in the art to modify the teachings of Cohen with the handle teachings of Farnum at the time of the invention for the advantage of lifting and stabilizing a person as taught by Farnum (Farnum Col. 3 line 50-51). The modification is merely the addition of an additional handle configuration for a multiple effect to provide for more gripping surfaces to better stabilized and lift.

Regarding Claim 12, Cohen as modified teaches the handle inherently having sufficient friction that it can be reliably gripped without significant slippage when contacted with soapy water (Farnum Col. 2 line 17).

Regarding Claim 13, Cohen as modified teaches the corset or harness inherently comprising at least one of a fabric, plastic, elastomer, metal or composite material (Farnum Col. 1 line 54-57).

Regarding Claim 16, Cohen as modified teaches the corset or harness further comprising one or more flexible straps sized and configured so as to wrap around at least one of a child's shoulders or legs (Cohen Fig. 8 #40 and 54).

Regarding Claim 18, Cohen as modified teaches the fastening device comprises at least one of a hook and loop system, a buckle, a tie, a snap, a latch, or a ratchet (Farnum #50 and 52; Cohen #38 and 34).

Regarding Claim 19, Cohen as modified teaches a second handle attached to the corset or harness in a manner so that the second handle is positioned at or near a central balancing plane on an opposite side of the child's body relative to the handle when the restraint device is in use (Cohen #70 could be viewed as being equivalent to element #17 of Farnum), it would have been obvious to one of ordinary skill in the art to modify both elements #70 of Cohen with an element #40 of Farnum at the time of the invention for ergonomic ease of gripping. Furthermore, applicant has not structurally claimed the structure of the second handle, so Cohen #70 alone or even Cohen #68, #36 could be the second handle.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,122,778 to Cohen in view of U.S. Patent No. 6,073,280 to Farnum as applied to claim 10 above, and further in view of U.S. Patent No. 5,007,413 to Thune.

Regarding Claim 17, Cohen as modified is silent on a head restraining system configured to restrain a child's head in a desired position relative to the child's body when the restraint device is in use that engages at least a portion of a child's skull region. However, Thune teaches a head restraint system (Thune Fig. 2 #11, 12) comprising a concave region configured to receive at least a portion of the child's skull in order for the head restraint system to securely restrain that is configured to attach to a child's head

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and restrain the child's head in a desired position. It would have been obvious to one of ordinary skill in the art to further modify the teachings of Farnum with the teachings of Thune at the time of the invention for the advantage of immobilizing the head in a first aid response as taught by Thune (Thune abstract).

Allowable Subject Matter

Claim 28 is allowed.

Response to Arguments

Applicant's arguments with respect to claims 1-13, 16-27, and 29 have been considered but are moot in view of the new ground(s) of rejection.

Examiner maintains that applicant has not patentably/structurally distinguished over the teachings of the cited prior art of record.

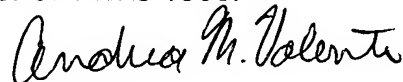
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Andrea M. Valenti
Primary Examiner
Art Unit 3643

21 March 2007